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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,315	08/31/2001	Martin W. Masters	2001P16281US	2177
7590	04/25/2005		EXAMINER	
Siemens Corporation Intellectual Property Department 186 Wood Avenue South Iselin, NJ 08830			DABNEY, PHYLESHA LARVINIA	
			ART UNIT	PAPER NUMBER
			2643	

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## **DETAILED ACTION**

The reply brief filed 21 September 2004 has been entered and considered. The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.

Examiner's Response: The examiner used the applicant's supplied definition of "textured" when selecting the Widmer reference. As clearly shown on page 6 (examiner's answer) the applicant defined "textured finish" (page 5 except from applicant's specification) to mean a surface having a series of lines..., equally or unequally spaced... or a plurality of shapes or patterns.... The Widmer hearing aid instrument patent clearly supports a hearing aid shell having a texture on the external surface (Widmer, figs. 4-24, channel/passage configurations on the outer surface) and internal surface (fig. 15, reinforced ribs on the internal surface; since the claims do not specify whether the texture is excluded from the internal surface, these ribs are applicable as well). Here again, the applicant mistakenly argues that the word texture is related to the word appearance. It is not. Contrary to the applicant's continued erroneous assertion, the applicant supplied certification which contained "the Marks Standard Handbook for Mechanical Engineers" (see page 7 of examiner's answer) clearly states that the appearance qualities, such as appearance, luster, color, etc., is not a concern for determining surface-texture standards. More importantly, the terms "appearance being closer to natural skin" is not in the claim language. So, the examiner's interpretation of the applicant's statement that the hearing instrument must have a "textured finish" (the examiner supported by using the channels and ribs clearly shown in the Widmer reference) is both "reasonable" and "consistent" with the applicant's supplied materials.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha L Dabney whose telephone number is 703-306-5415. The examiner can normally be reached on Mondays, Tuesdays, Wednesdays, Fridays 8:30-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 703-305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

January 3, 2005  
  
PLD

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